

# **EXHIBIT A**

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

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RICHARD KADREY, ET AL., )  
INDIVIDUAL AND REPRESENTATIVE )  
PLAINTIFFS, ) LEAD CASE NO.  
v. ) 3:23-cv-03417-VC  
META PLATFORMS, INC., )  
DEFENDANT. )  
\_\_\_\_\_  
)

\* \* \* H I G H L Y C O N F I D E N T I A L \* \* \*  
\* \* \* A T T O R N E Y S ' E Y E S O N L Y \* \* \*

VIDEO-RECORDED 30(B) (6) DEPOSITION OF

MICHAEL CLARK

VOLUME III

WEDNESDAY, NOVEMBER 20, 2024

SAN FRANCISCO, CALIFORNIA

9:38 A.M. PST

REPORTED BY AUDRA E. CRAMER, CSR NO. 9901

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1 sharing the content outside. This could be  
2 legally not okay."

3 A. Okay.

4 Q. So maybe I'm misunderstanding, but I  
5 thought you said that Bashlykov said that they  
6 did use torrents, and I'm just trying to  
7 confirm -- this document suggest that they did a  
8 direct file upload -- if that's different than  
9 what he testified to. I'm just trying to  
10 understand.

11 A. Let me read in context the other parts  
12 of his notes here.

13 Okay. Apologize. I was confused by  
14 the page order.

15 Q. That's okay.

16 A. Do you mind asking that question once  
17 again?

18 Q. Yeah. So I believe you've testified  
19 that you spoke with Bashlykov and that he said  
20 that they downloaded LibGen through torrent.

21 Is that correct?

22 A. That is correct.

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1           Q.     This says, "Decided to go with direct  
2     file upload without using torrents for the  
3     following reasons: Using torrents would entail  
4     seeding the files, sharing the content outside.  
5     This could be legally not okay."

6                 So how did Meta obtain and copy LibGen?

7                 MS. HARTNETT: Object to the form.

8                 THE WITNESS: So I spoke with  
9     Bashlykov. We used libtorrent and the torrent  
10    protocol for downloading. We had tried to  
11    download a few different ways. One of them  
12    included doing it via direct downloads where  
13    there were individually hosted files in  
14    different places and saw many issues with that  
15    where files wouldn't exist, it was too slow or  
16    would error out.

17                 Also tried -- well, actually, the other  
18    only other option was downloading via torrent,  
19    and --

20    BY MS. POUEYMIROU:

21                 Q.     And that's what you did?

22                 A.     That's what we did. And the library

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1       that we used using, LibGen -- sorry --  
2       libtorrent for downloading LibGen, Bashlykov  
3       modified the config setting so that the smallest  
4       amount of seeding possible could occur.

5           Q.     What does that mean?

6           A.     When you use a torrent protocol, part  
7       of the configuration on how torrents work is you  
8       can only download as long as you offer to  
9       participate in the torrent network in some way,  
10      and seeding means that you have to open up some  
11      amount of sharing of the torrent file while  
12      you're downloading.

13          Q.     So why did Meta decide to minimize  
14      seeding the files?

15           Is it because it was concerned that  
16      that was legally not okay, to quote this  
17      document?

18           MS. HARTNETT: Objection to the form.

19           And to the extent it calls for any  
20      attorney-client privilege, please don't reveal  
21      that.

22           THE WITNESS: Yeah, I do not know what

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1 Nikolay means in here by "legally not okay." I  
2 know that legal did provide advice, which I  
3 can't share. I can share what the setting was.

4 BY MS. POUEYMIROU:

5 Q. Is Bashlykov a lawyer?

6 A. No.

7 Q. Okay. So you ended up using torrent,  
8 but you minimized seeding the files?

9 A. To the lowest possible setting, yes.

10 Q. Are you familiar with anti-leeching  
11 protocol?

12 A. I've heard the term before.

13 In which context?

14 Q. In the context of -- with respect to  
15 seeding the files.

16 Is there a relationship what Meta was  
17 doing by minimizing the seeding of file with  
18 leeching?

19 A. Could you be more specific?

20 Q. How do you understand anti-leeching?

21 A. I don't -- I didn't prepare on it  
22 today. I would only know from my just own

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1 MR. STEIN: On the shadow libraries?

2 MS. HARTNETT: On the sharing of how  
3 much sharing or non-sharing of data was  
4 accomplished by the downloaded method.

5 MR. STEIN: Okay. Well, if the shadow  
6 library was being downloaded and required Meta  
7 to also be uploading the data at the same time  
8 and kind of compound the infringement here, I  
9 think it's very much in the scope.

10 MS. HARTNETT: I think he's not -- I  
11 don't read the topics to include that nor I  
12 don't think reasonably put him on notice, but he  
13 can answer.

14 I'm not going to try to stop him from  
15 answering, I'm just saying that I think that's  
16 kind of beyond -- going to the edge of the topic  
17 at best.

18 BY MS. POUEYMIROU:

19 Q. So how would we find out how much data  
20 was shared?

21 A. I do not know. I don't have those  
22 details.

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1 record just say one thing?

2 With respect to your questioning about  
3 seeding, kind of without arguing about whether  
4 it's under 1 or 7, Mr. Bashlykov will be the  
5 30(b) (6) witness for Topic 7, and he's prepared  
6 to talk about the seeding in more detail.

7 This witness has some obvious technical  
8 knowledge, but Mr. Bashlykov will be the person  
9 to provide more information on that for you.

10 MS. POUEYMIROU: Okay. Thank you.

11 Q. So last week we looked at a document  
12 where Eleonora Presani says LibGen is an illegal  
13 pirating website.

14 Were there other employees at Meta that  
15 expressed concern about using LibGen because it  
16 was a pirating website?

17 MS. HARTNETT: Object to the form.

18 THE WITNESS: I am not aware of others  
19 that -- I am not.

20 BY MS. POUEYMIROU:

21 Q. One of the documents you were prepared  
22 with was a New York Times article which